IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.3792 OF 2005

Baldevsingh Babusingh Pardesi : Petitioner
(Orig. Plaintiff)

V/s.

Pravinsingh Pratapsingh Gahirwal : Respondent
(Orig. Defendant)

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Mrs.Sangeeta Bhole for the petitioner.

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CORAM : S.A. BOBDE, J.

June 16, 2005.

P.C.:

1. By this petition, the petitioner has challenged the order of the Civil Judge, Senior Division, Panvel, dated 4.10.2004. By the impugned order dated 4.10.2004, the Civil Judge, Senior Division, Panvel, has made the following order on the petitioner's application:-

> "1. Plaintiff is directed to apply to the Cidco MIDC and MSEB to have water and electricity connections and the defendant is hereby restrained from causing obstruction to the plaintiff.

2. MIDC and MSEB shall restore or grant fresh water and electricity connection on receiving application from the plaintiff on submitting proof of residence.

3. Plaintiff is directed to deposit Rs.1,000/- per month as occupancy charges under protest in the Court.

4. Application is accordingly disposed of.

5. Cost of the application shall be the cost in the suit."

2. The subject-matter of the suit is a residential building no.P.L.6/6, sector-17, residential block no.P.L.6/6/01, at New Panvel, CIDCO colony, apartment no.1. It is an admitted position that the petitioner applied for an injunction directing MIDC and MSEB to grant a fresh water and electricity connection on receiving application from the plaintiff and proof of residence. The petitioner is aggrieved by clause 3 of the aforesaid

order by which he has been directed to deposit Rs.1,000/- per month as occupancy charges under protest in the Court. I find no reason to interfere with the order since the Court has passed the aforesaid order in view of doubt about the petitioner's title. Admittedly, the title of the suit flat is not in his name and similar application filed by him in Special Civil Suit no.61 of 1998 was rejected on that ground. There is some evidence on record that the petitioner has paid the purchase price and, therefore, it appears that the Court has granted the order to the petitioner. In these circumstances, admittedly, since the title deed of the flat is not in the name of the petitioner, I see no error of law warranting interference with clause no.3 of the aforesaid order whereby the petitioner has been directed to deposit Rs.1,000/- per month as occupancy charges. At this stage, it is difficult to accept the contention that the petitioner is the owner and, therefore, ought not to have been directed to pay occupancy charges. Occupancy charges are made specifically payable under protest.

3. In the result, there is no merit in this petition which is hereby dismissed.

S.A. BOBDE, J.